Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of   )
)
Assessment and Collection of   )   MD Docket No. 95-3
Regulatory Fees for Fiscal   )
Year 1995   )

REPLY COMMENTS OF COMSAT CORPORATION

COMSAT Corporation ("COMSAT"), on behalf of its COMSAT World Systems ("CWS") and COMSAT Mobile Communications ("CMC") business units and its subsidiaries, COMSAT General Corporation ("COMSAT General") and COMSAT Video Enterprises, Inc. ("CVE"), herein submits its Reply Comments in the above-captioned proceeding.

As an initial matter, COMSAT wishes to respond to the comments of PanAmSat, L.P. ("PanAmSat") and Columbia Communications Corporation ("Columbia"), which maintain that COMSAT should be required to pay space station fees for the INTELSAT and INMARSAT satellites.[1] Contrary to the claims of PanAmSat and Columbia, Congress has expressly determined that the INTELSAT and INMARSAT satellites are not subject to annual space station fees because INTELSAT and INMARSAT are not FCC licensees and their decisions to procure satellites are made pursuant to treaties among many nations, not by COMSAT. Specifically, H.R. Report 102-207 to accompany H.R. 1674 states with respect to space station fees that:

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[1] Comments of PanAmSat at 1-2; Comments of Columbia at 6-9.

> "the Committee intends that fees in this category be
> assessed on operators of U.S. facilities, consistent
> with FCC jurisdiction. Therefore, these fees will
> apply only to space stations directly licensed by the
> Commission under Title III of the Communications Act.
> Fees will not be applied to space stations operated by
> international organizations subject to the
> International Organizations Immunities Act, 22 U.S.C.
> Section 288 et seq."[2]

This language was incorporated by reference in the Conference

Report accompanying the 1994 Budget Reconciliation Act, which

adopted the regulatory fee program.[3]

There are strong policy arguments which support this

outcome. COMSAT does not control the number of satellites that

INTELSAT and INMARSAT decide to procure and launch; it utilizes

only about 20% of the capacity of those satellites; and many of

those satellites are deployed to orbital locations that are not

accessible from the United States. Accordingly, it would be

inappropriate, as well as inconsistent with applicable treaties,

to charge COMSAT a regulatory fee based on the number of INTELSAT

and INMARSAT satellites in orbit.

The fact that INTELSAT and INMARSAT satellites are exempt

from the payment of space station fees does not mean, however,

that COMSAT is exempt from the regulatory fee program. To the

contrary, Congress has authorized the Commission to recover the

costs of those Section 9 activities incurred for the benefit of

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[2] H.R. Rep. No. 102-207, 102d Cong., 1st Sess. 26. Both
INTELSAT and INMARSAT are subject to the International
Organizations Immunities Act. See Exec. Order No. 11,996, 42
Fed. Reg. 4331 (1977); Exec. Order No. 12,238, 45 Fed. Reg.
60,877 (1980).

[3] H.R. Conf. Rep. No. 103-213, 103d Cong. 1st Sess. 499.

CWS and CMC through a fee on international bearer circuits.
Thus, for FY 1994, COMSAT paid approximately $100,000 in bearer
circuit fees. For FY 1995, based on the information contained in
the Notice, we believe COMSAT's annual fees for international
bearer circuits will be approximately $230,000, and may be
higher. Moreover, COMSAT pays annual space station fees for its
MARISAT, COMSTAR and SBS satellites. For FY 1994, these fees
amounted to $455,000, and under the fee schedule proposed for FY
1995, this fee will apparently increase to $853,500.
Additionally, COMSAT pays annual earth station regulatory fees
for its CWS, CMC, COMSAT General and CVE earth stations. For FY
1995, we expect these fees to be about $340,000.

Further, both CMC and CWS pay a fee with each application
they file for authority to participate in the procurement of an
INTELSAT or INMARSAT satellite,[4] and both pay an additional fee
with each application to launch a satellite. In 1993, these fees
totalled $224,210; in 1994, the fees were $165,085.
Consequently, it is clear that COMSAT is indeed paying more than
its fair share of Section 8 and Section 9 fees, although the
method of collection for Section 9 activities, as decided by
Congress, is not on a per space station basis, in view of U.S.
treaty obligations.

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[4]Indeed, because the Commission requires COMSAT's
applications to be filed before procurement decisions are
actually made, COMSAT has even paid application fees for
satellites that INTELSAT ultimately decided not to procure
(e.g. the Express satellites).

COMSAT does however agree with PanAmSat, Columbia and GE American Communications, Inc. ("GE") that the regulatory fee proposed for feeable satellites is excessive and should be substantially reduced to reflect the actual costs of regulation.[5] In this regard, we believe that GE's thoughtful analysis, which estimates the space station fee to be $11,857 per satellite, much more closely approaches the actual cost of regulation than does the Commission's estimate of $142,250, for which the Notice offers no support.[6]

In sum, the comments filed in this proceeding have pointed out a host of serious deficiencies which cast fundamental doubt on the lawfulness of the Commission's regulatory fee program. In light of these comments, the Commission should re-examine its methodologies, recalculate its fees and adopt a fee structure which reflects the true cost of regulation.

Respectfully submitted,

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[5] The analysis undertaken by AT&T and GE also suggests that the fees for bearer circuits and space stations for FY 1994 and FY 1995 have been incorrectly calculated. If these parties are correct, the Commission should refund the amounts collected for FY 1994 in excess of the cost of regulation, and should adjust the fees proposed for FY 1995.

[6] See Comments of GE at n.18.